

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF  
THE KINGDOM OF DENMARK  
(SKATTEFORVALTNINGEN) TAX REFUND  
SCHEME LITIGATION

Master Docket 18-md-02865 (LAK)  
ECF Case

This document relates to: 1:19-cv-01867-LAK,  
1:19-cv-01868-LAK, 1:19-cv-01869-LAK,  
1:19-cv-01895-LAK, 1:19-cv-01896-LAK,  
1:19-cv-01898-LAK, 1:19-cv-01904-LAK,  
1:19-cv-01906-LAK, 1:19-cv-01911-LAK,  
1:19-cv-01924-LAK

**DECLARATION OF MICHAEL G. BONGIORNO IN SUPPORT OF  
DEFENDANTS' MOTION TO DISMISS THE COMPLAINTS**

I, Michael G. Bongiorno, declare and state as follows:

1. I am an attorney at Wilmer Cutler Pickering Hale and Dorr LLP, counsel for Defendants Richard Markowitz, Jocelyn Markowitz, AvaniX Management LLC Roth 401(K) Plan, Batavia Capital Pension Plan, Calypso Investments Pension Plan, Cavus Systems LLC Roth 401(K) Plan, Hadron Industries LLC Roth 401(K) Plan, RJM Capital Pension Plan, and Routt Capital Pension Plan (collectively, "Defendants") in the above-captioned actions. The facts stated in this declaration are known to me personally or are based on information provided in the annexed exhibits.

2. I submit this declaration in support of Defendants' motion to dismiss the complaints pursuant to Federal Rule of Civil Procedure 12(b)(1).

3. A true and correct copy of Plaintiff SKAT's Responses and Objections to Defendants' First Requests for Production of Documents filed in *In Re Customs and Tax*

*Administration of The Kingdom of Denmark (Skatteforvaltningen) Tax Refund Scheme*

*Litigation*, No. 18-md-2865 (LAK), dated April 8, 2019, is annexed hereto as Exhibit “A.”

4. A true and correct copy of the Re-Amended Particulars of Claim filed in *Skatteforvaltningen (the Danish Customs and Tax Administration) v. Solo Capital Partners LLP et al.*, Claim No. CL-2018-000297 (High Ct. of Justice, Bus. & Prop. Cts. of England & Wales), dated July 17, 2019, is annexed hereto as Exhibit “B.” To reduce the volume of material submitted, I have intentionally omitted additional pages beyond page 10 but can provide the remaining pages to the Court upon request.

5. A true and correct copy of the Ninth Witness Statement of Jonathan Robert Fortnam filed in *SKAT (the Danish Customs and Tax Administration) v. Solo Capital Partners LLP et al.*, Claim No. CL-2018-000297 (High Ct. of Justice, Bus. & Prop. Cts. of England & Wales), dated February 15, 2019, is annexed hereto as Exhibit “C.” To reduce the volume of material submitted, I have intentionally omitted the supporting exhibit (with the exception of the pages excerpted as Exhibit “D” described below) but can provide it to the Court upon request.

6. A true and correct copy of the Expert Opinion of Dr. Frederik Waage filed in *Skatteforvaltningen (the Danish Customs and Tax Administration) v. Solo Capital Partners LLP et al.*, Claim No. CL-2018-000297 (High Ct. of Justice, Bus. & Prop. Cts. of England & Wales), dated February 14, 2019, is annexed hereto as Exhibit “D.” To reduce the volume of material submitted, I have intentionally omitted the supporting exhibits but can provide these to the Court upon request.

I, the undersigned Michael G. Bongiorno, hereby declare under penalty of perjury that the foregoing is true and correct.

Dated: August 19, 2019  
New York, New York

By: /s/ Michael G. Bongiorno  
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